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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,166	08/02/2001	Richard Dyott	KVC-038.01	7202

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EXAMINER

PATEL, TULSIDAS C

ART UNIT PAPER NUMBER

2839

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/921,166

Applicant(s)

DYOTT ET AL.

Examiner

T. C. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***General Status***

1. This is a First Action on the Merits. Claims 1-21 are pending in the case.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 1/17/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show numerals 14a (page 6, line 2) and 28 (page 7, lines 8 and 15) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3-11, are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 18, it is not clear what is meant by 'fiber orientation is maintained along the sections...' The fiber orientation being along the axis, is the polarization along the two perpendicular axes maintained? Also in claims 3-5 and 8-11 "twist angle between the adjacent sections being..." is not clear, as the twist angle between the adjacent sections (12, 16 or 22, 26') is not substantially xx degrees, it is the twist angle between the respective ends of the adjacent sections is substantially xx degrees.

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-11 and 13-21, are rejected under 35 U.S.C. § 102(b) as being anticipated by Evans et al. (US 5,822,487).

Evans et al. in figures 5 and 6, discloses method of reducing linear birefringence in an optical fiber comprising subdividing length of optical fiber into a plurality of sections (figure

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6), including between the sections a twist having a predetermined sense of rotation and twist angle. For claims 2-5, 8-11, 15, 16 and 19-21, the angle of twist can be as high as 360 degrees (column 4, line 59).

8. Claims 1-21, are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 98/53352.

WO '352 in figures 3-5, discloses method of reducing linear birefringence in an optical fiber comprising subdividing length of optical fiber into a plurality of sections (figure 4), including between the sections a twist having a predetermined sense of rotation and twist angle. For claims 2-5, 8-11, 15, 16 and 19-21, the angle of twist between the input and output can be any degree, see page 8, lines 5-8. Also for claim 12, fusion splicing (and therefore use of heat) is disclosed on page 7, line 19.

9. The prior art made of record and not relied upon is considered pertinent to applicant's invention. Kim et al. (US 6,233,371), Meise et al. (US 6,389,185), Yoshida et al. (US 6,519,404) and Hart, Jr. et al. (US 5,418,881) all disclose twisting of fiber optics.

The Applicant also should consider these references in response to this office action. Should issue arise concerning the rejection presented above, these references may be relied upon in a subsequent action to support the lack of novelty or obviousness of claimed subject matter to one of ordinary skill in the art.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. C. Patel whose telephone number is (703) 308-1736. The examiner can normally be reached on 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (703) 308-2710. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1736.



T. C. Patel  
Primary Examiner  
Art Unit 2839

tcp  
March 6, 2003